

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GIUFFRE HYUNDAI, LTD. (d/b/a GIUFFRE
HYUNDAI),

Plaintiff,

– against –

HYUNDAI MOTOR AMERICA,

Defendant.

MEMORANDUM AND ORDER

13-CV-520

JACK B. WEINSTEIN, Senior United States District Judge:

Upon hearing an emergency application by plaintiff to stay the court's judgment of May 10, 2013 in favor of the defendant, the judgment is not stayed. *See* Memorandum, Order, & Judgment, ECF No. 28.

An appeal may take one year or more. If a stay were granted by this court pending appeal, the defendant would be forced to be represented by the plaintiff, which has been found to be unethical by the Supreme Court of the State of New York. *Id.*

The statutory "stay" of the termination of a dealership ends when "the final judgment has been rendered in an adjudicatory proceeding or action...." N.Y. Veh. & Traf. Law § 463 (2)(e)(1). A final judgment has been rendered in this adjudicatory action. *See Matter of Bailey*, 265 App. Div. 758, 40 N.Y.S.2d 746 (1st Dept. 1943), *aff'd*, 291 N.Y. 534.

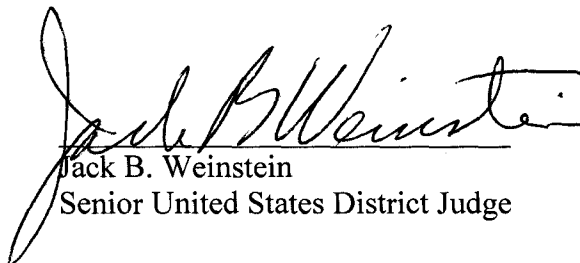
"A summary judgment completely disposing of all claims among all parties is final, just as any other such judgment." 15B C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure: Jurisdiction § 3914.28 (2d ed.).

"Every judgment...must be set out in a separate document...." Fed. R. Civ. P. 58(a).

Since the court's decision of May 10, 2013 was clearly characterized by the document as a "judgment," and so entered, there is no statutory stay in effect. *See* Memorandum, Order, & Judgment, ECF No. 28; Clerk's Judgment, May 10, 2013, ECF No. 29. The order of May 10, 2013 constitutes a separate judgment as required by Rule 58.

A stay pending appeal is denied.

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Date: May 14, 2013
Brooklyn, New York